

DRAFT REGULATIONS Implementing Assembly Bill 1103

Amending California Code of Regulations
Title 20, Chapter 4, Article 9
Sections 1680-1685

STAFF DRAFT REGULATIONS

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Arnold Schwarzenegger, Governor

**DRAFT REGULATIONS
Implementing AB 1103 (2007)**

California Code of Regulations

Title 20. Public Utilities and Energy

Chapter 4. Energy Conservation

Article 9. Nonresidential Building Energy Performance Reports and Disclosures

[Draft] Section 1680. Purpose

This article implements procedures, pursuant to Public Resources Code section 25402, for reporting energy use data and disclosing energy use data and energy efficiency ratings for nonresidential buildings in California.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.

Reference: Section 25402.10, Public Resources Code.

[Draft] Section 1681. Scope

This article applies to all nonresidential buildings in California.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.

Reference: Section 25402.10, Public Resources Code.

[Draft] Section 1682. Definitions

The following definitions apply to this article:

- (a) "Building Owner" means a person, as defined by Public Resources code section 25116, possessing title to the building; or an agent authorized to act on behalf of the entity possessing title.
- (b) "Building Tenant" means a person, as defined by Public Resources code section 25116, who leases space in a nonresidential building.
- (c) "CEC Nonresidential Building Energy Performance Report" means a completed and notarized Commission Form [number], detailing a nonresidential building's energy use and stating the building's California Energy Performance Rating.
- (d) "California Energy Performance Rating" means the Commission's "A" to "G" rating evaluating energy efficiency for California nonresidential buildings.
- (e) "CEC" means the California Energy Commission.

- (f) "Commission" means the California Energy Commission.
- (g) "Energy" means electricity, natural gas, heating oil, or other product sold by a utility to a customer of a nonresidential building, or renewable on-site electricity generation, for purposes of providing heat, cooling, lighting, water heating, or powering or fueling other end-uses in the building and related facilities.
- (h) "ENERGY STAR® Qualified Facility" means buildings and related facilities that qualify for the U.S. EPA registered certification mark, by receiving a U.S. EPA Energy Performance Rating of 75 or higher.
- (i) "Energy Use Data" means kilowatt hours, therms, or other utility company measures of energy used by a nonresidential building during the most recent 12 months.
- (j) "Entire Building" means a physically integrated building with a single owner.
- (k) "EPA" means the U.S. Environmental Protection Agency.
- (l) "KBtus" means kilo (thousand) British thermal units.
- (m) "Nonresidential Building" means a building of an occupancy type other than Residential Group R-2, R-3, R-3.1 or R-4, as defined in the California Building Code, title 24, section 302 et seq. (2007). Such building types include but are not limited to offices; retail and wholesale stores; restaurants, theaters, churches, and other places of assembly; K-12 schools; factories and other industrial buildings; hospitals and other health care facilities; hotels and motels; and storage facilities.
- (n) "Portfolio Manager" means the U.S. Environmental Protection Agency's online tool for managing building data, in order to create a U.S. EPA Energy Performance Rating.
- (o) "U.S. EPA Energy Performance Rating" means the U.S. Environmental Protection Agency's 1 to 100 building energy efficiency measurement normalized for a building's characteristics, operations, and weather, according to methods established by U.S. EPA's ENERGY STAR® Portfolio Manager.
- (p) "U.S. EPA Statement of Energy Performance" means a completed and certified version of EPA form 5900-16, or any EPA form that replaces 5900-16, detailing a building's energy use and stating the building's U.S. EPA Energy Performance Rating.
- (q) "Utility Company" means the entity or entities billing the nonresidential building owner and/or tenants for energy use in the building.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Sections 25116 and 25402.10, Public Resources Code; Sections 302 et seq., Title 24, California Building Code.

[Draft] Section 1683. Reports of Energy Use to U.S. EPA; Reports of Energy Use to California Energy Commission

- (a) According to the implementation schedule established by Section 1685, and at least 30 days before a disclosure is required by Section 1684, a building owner shall open an account at the U.S. EPA's ENERGY STAR® Portfolio Manager website, and within that account:
 - (1) identify the building; and identify the utility company meters or utility company accounts that serve the building;
 - (2) supply building characteristics as requested;
 - (3) supply contact information;
 - (4) authorize each utility company serving the building to release energy use data for each meter to Portfolio Manager;
 - (5) request each utility company release energy use data for each meter for the most recent 12 months to Portfolio Manager;
 - (6) authorize the CEC to access Portfolio Manager account information.

- (b) According to the implementation schedule established by Section 1685, and at least 30 days before a disclosure is required by Section 1684, a building owner shall open an account at the CEC's Nonresidential Building Energy Performance website, and within that account:
 - (1) supply U.S. EPA Portfolio Manager building account identification;
 - (2) supply additional information regarding the building or its energy use, in order to generate a California Energy Performance Rating.

- (c) Within 14 calendar days of receiving an authorization and request from the building owner to release energy use data to the U.S. EPA's Portfolio Manager, a utility company shall upload the entire building's energy use data to Portfolio Manager, subject to the following conditions:
 - (1) a utility company may verify an authorization is complete and accurate before releasing energy use data;

 - (2) a utility company that is not a local agency, as defined by California Government Code section 6252, shall release tenant energy use data to a building owner under a non-disclosure agreement for the sole purpose of complying with Public Resources section 25402.10 and this article.

- (d) After all utility companies serving the building have uploaded the building's energy use data, the building owner shall, in sufficient time to comply with the schedule established in Section 1685:
- (1) receive a U.S. EPA Statement of Energy Performance for the building, if applicable; and
 - (2) receive a CEC Nonresidential Building Energy Performance Report for the building.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Sections 6252 and 6254.16, Government Code; Section 25402.10, Public Resources Code.

[Draft] Section 1684. Disclosure of U.S. EPA Energy Performance Statement; Disclosure of CEC Nonresidential Building Energy Performance Report

According to the schedule established in Section 1685, a building owner shall disclose the building's U.S. EPA Portfolio Manager Statement of Energy Performance, if applicable, and the building's CEC Nonresidential Building Energy Performance Report:

- (a) at the time the owner presents a sales contract for the entire building to a prospective buyer;
- (b) at the time the owner presents a lease for the entire building to a prospective lessee; and
- (c) at the time the owner presents a loan application to finance the entire building to a prospective lender.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Section 25402.10, Public Resources Code.

[Draft] Section 1685. Implementation Schedule for Disclosures

- (a) On and after July 1, 2010, a building owner shall disclose, pursuant to Section 1684, the building's U.S. EPA Portfolio Manager Statement of Energy Performance and the

CEC Nonresidential Building Energy Performance Declaration for nonresidential buildings that are:

- (1) solely occupied by the owner and measure at least 5,000 square feet;
- (2) office buildings, as defined by Portfolio Manager building types, measuring 50,000 square feet or more;
- (3) retail spaces, as defined by Portfolio Manager building types, measuring 50,000 square feet or more;
- (4) food stores, as defined by Portfolio Manager building types, measuring 25,000 square feet or more;
- (5) refrigerated warehouses, as defined by Portfolio Manager building types, measuring 50,000 square feet or more;
- (6) unrefrigerated warehouses, as defined by Portfolio Manager building types, measuring 200,000 square feet or more; or
- (7) hospitals and other health care facilities, as defined by Portfolio Manager building types, measuring 50,000 square feet or more.

(b) On and after July 1, 2011, a building owner shall disclose, pursuant to Section 1684, the U.S. EPA Portfolio Manager Statement of Energy Performance and the CEC Nonresidential Building Energy Performance Report for nonresidential buildings that are:

- (1) office buildings, as defined by Portfolio Manager building types, measuring 10,000 to 50,000 square feet;
- (2) retail spaces, as defined by Portfolio Manager building types, measuring 10,000 to 50,000 square feet;
- (3) food stores, as defined by Portfolio Manager building types, measuring 10,000 to 25,000 square feet;
- (4) refrigerated warehouses, as defined by Portfolio Manager building types, measuring 10,000 to 50,000 square feet;
- (5) unrefrigerated warehouses, as defined by Portfolio Manager building types, measuring 10,000 to 200,000 square feet;
- (6) hospitals and other health care facilities, as defined by Portfolio Manager building types, measuring 20,000 to 50,000 square feet; or
- (7) bank branches, as defined by Portfolio Manager building types, measuring at least 1,000 square feet; or
- (8) all other nonresidential buildings measuring at least 5,000 square feet that are not solely occupied by the owner.

(c) On and after July 1, 2012, a building owner shall disclose, as described in Section 1684, the CEC Nonresidential Building Energy Performance Report for buildings that are :

- (1) hospitals and health care facilities, as defined by Portfolio Manager building types, measuring less than 20,000 square feet;
- (2) bank branches, as defined by Portfolio Manager building types, measuring less than 1,000 square feet; or
- (3) all other nonresidential buildings measuring less than 5,000 square feet.

Note: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25402.10, Public Resources Code.



Appendix A

Sample EPA Statement of Energy Performance

OMB No. 2060-0347		
	<h3 style="margin: 0;">STATEMENT OF ENERGY PERFORMANCE</h3> <h4 style="margin: 0;">Test Office Florida</h4> <p>Building ID: 1422264 For 12-month Period Ending: May 31, 2009¹ Date SEP becomes ineligible: N/A</p> <p style="text-align: right;">Date SEP Generated: August 03, 2009</p>	
<hr/>		
Facility Test Office Florida 5000 Parkway Maitland, FL 32751	Facility Owner Sample Company 111 Main St Richmond, VA 23233	Primary Contact for this Facility John Doe 111 Main Street Richmond, VA 23233
Year Built: 1981 Gross Floor Area (ft²): 123,610		
Energy Performance Rating² (1-100): 85		
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Site Energy Use Summary³		
Electricity (kBtu)	8,642,596	
Natural Gas (kBtu) ⁴	0	
Total Energy (kBtu)	8,642,596	
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Energy Intensity⁵		
Site (kBtu/ft ² /yr)	70	
Source (kBtu/ft ² /yr)	234	
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Emissions (based on site energy use)		
Greenhouse Gas Emissions (MtCO ₂ e/year)	1,522	
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Electric Distribution Utility Progress Energy Florida		
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National Average Comparison		
National Average Site EUI	105	
National Average Source EUI	352	
% Difference from National Average Source EUI	-34%	
Building Type	Office	
<hr/>		
Meets Industry Standards⁶ for Indoor Environmental Conditions:		Certifying Professional John Doe 111 Main Street Richmond, VA 23233
Ventilation for Acceptable Indoor Air Quality	N/A	
Acceptable Thermal Environmental Conditions	N/A	
Adequate Illumination	N/A	
<hr/>		
<small>Notes: 1. Application for the ENERGY STAR must be submitted to EPA within 4 months of the Period Ending date. Award of the ENERGY STAR is not final until approval is received from EPA. 2. The EPA Energy Performance Rating is based on total source energy. A rating of 75 is the minimum to be eligible for the ENERGY STAR. 3. Values represent energy consumption, annualized to a 12-month period. 4. Natural Gas values in units of volume (e.g. cubic feet) are converted to kBtu with adjustments made for elevation based on Facility zip code. 5. Values represent energy intensity, annualized to a 12-month period. 6. Based on Meeting ASHRAE Standard 62 for ventilation for acceptable indoor air quality, ASHRAE Standard 55 for thermal comfort, and IESNA Lighting Handbook for lighting quality.</small>		
 <small>The government estimates the average time needed to fill out this form is 6 hours (includes the time for entering energy data, PE facility inspection, and notarizing the SEP) and welcomes suggestions for reducing this level of effort. Send comments (referencing OMB control number) to the Director, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460.</small>		
EPA Form 5900-16		

Appendix B

Sample of [Draft] California Energy Commission Nonresidential Building Energy Performance Report

COMMERCIAL BUILDING		
Energy Performance		
California Energy Performance Rating  142 kbtu/sf/yr	Building Name: Building ID: BUILDING ID CODE Issue Date: DATE Building Type: RETAIL STORE The score for this building was determined based on the information provided below. This data has been field verified on _____ by: _____ Name: _____ Address: _____ City, State, Zip Code: _____ Gross floor area (SF): _____	
California Median CA - EUI Median Value: 175 kbtu/sf - yr Percent of Median: 92%	Energy Use Index (kbtu/sf-year) Raw 157 Weather normalized 142	
Default Used Data Entered <input type="checkbox"/> Weekly operating hours <input type="checkbox"/> Number of workers on main shift <input type="checkbox"/> Number of personal computers <input type="checkbox"/> Number of cash registers <input type="checkbox"/> Number of walk-in refrigeration/freezer units <input type="checkbox"/> Number of open & closed refrigeration/freezer cases <input type="checkbox"/> Percent of floor area that is cooled in 10% increments (10%, 20%, 30%, etc.) <input type="checkbox"/> Percent of floor area that is heated in 10% increments (10%, 20%, 30%, etc.)		

I, _____ on this date of _____
do hereby attest and certify that all the information or selections that appears on this certification were entered
by me and accurately represent the building identified to the best of my knowledge.

Signed: _____